

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 2388 - SB 2250

January 31, 2012

SUMMARY OF BILL: Increases the penalty, from a Class E to a Class C felony, for possession of a firearm if the defendant has a prior felony conviction involving the use or attempted use of force, violence, or a deadly weapon. Increases the penalty, from a Class E to a Class D felony, for possession of a firearm if the defendant has a prior felony drug offense conviction.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$271,000/Incarceration*

Funding in the amount of \$266,100 is included in the Governor's proposed FY12-13 budget.

Assumptions:

- According to the Department of Correction (DOC), there has been an average of 10 admissions for the Class E felony offense of unlawful possession of a weapon with a prior conviction.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional offender in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 11 offenders receiving a Class C felony rather than a Class E felony.
- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$62.95.
- The average post-conviction time served for a Class E felony is 1.28 years (467.52 days) at a cost of \$28,687.03 (\$61.36 x 467.52 days); 1.86 years (679.37 days) for a Class D felony at a cost of \$41,686.14 (\$61.36 x 679.37 days); and 2.98 years (1,088.45 days) for a Class C felony at a cost of \$66,787.29 (\$61.36 x 1,088.45 days).
- According to the Department, 39.6 percent of offenders will re-offend within two years of their release. A recidivism discount of 39.6 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender will commit the subsequent offense at the same felony level as under current law (11 offenders x 39.6%

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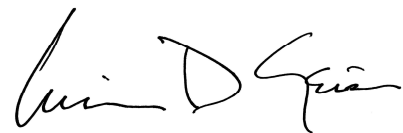
recidivism discount = 4 offenders). Seven (11 – 4) offenders will serve an additional 1.70 years (2.98 years Class C sentence – 1.28 years Class E sentence) as a result of this bill.

- The additional cost of increasing the average sentence length by 1.70 years (\$66,787.29 for a Class C - \$28,687.03 for a Class E) is \$38,100.26 per offender. The total additional cost for seven offenders is \$266,701.82 (\$38,100.26 x 7).
- According to DOC, there has been an average of 0.30 admissions for the Class E felony offense of unlawful possession of a weapon with a prior drug conviction in each of the past 10 years. DOC assumes the same admission rate will increase from a Class E to a Class D felony as a result of this bill. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year is based on one additional offender every three years receiving a Class D felony rather than a Class E felony and serving an additional 0.58 years (1.86 years – 1.28 years).
- The additional cost of increasing the average sentence length by 0.58 years (\$41,686.14 for a Class D - \$28,687.03 for a Class E) is \$12,999.11 per offender. The annualized cost per conviction is \$4,289.71 (0.33 annual number of convictions x \$12,999.11).
- The total increase in state expenditures is \$270,991.53 (\$266,701.82 + \$4,289.71).
- Any increase to state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.
- No significant fiscal impact to the District Public Defenders Conference or the District Attorney Generals Conference.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc